

## Federal Labor Relations Authority

## § 2417.203

written approval of the Chairman of the FLRA or the Chairman's designee.

### § 2417.202 Factors the FLRA will consider.

The Chairman or the Chairman's designee, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the Chairman may consider in making this decision are whether:

- (a) The purposes of this part are met;
- (b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;
- (c) Allowing such testimony or production of records would assist or hinder the FLRA in performing its statutory duties;
- (d) Allowing such testimony or production of records would be in the best interest of the FLRA;
- (e) The records or testimony can be obtained from other sources;
- (f) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;
- (g) Disclosure would violate a statute, Executive Order or regulation;
- (h) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;
- (i) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights or national security interests;
- (j) Disclosure would result in the FLRA appearing to favor one litigant over another;
- (k) The request was served before the demand;
- (l) A substantial Government interest is implicated;
- (m) The demand or request is within the authority of the party making it;
- (n) The demand or request is sufficiently specific to be answered; and

- (o) Any other factor deemed relevant under the circumstances of the particular request.

### § 2417.203 Filing requirements for litigants seeking documents or testimony.

A litigant must comply with the following requirements when filing a request for official records and information or testimony under part 2417. A request should be filed before a demand.

- (a) The request must be in writing and must be submitted to the Office of the Solicitor.
- (b) The written request must contain the following information:
  - (1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;
  - (2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;
  - (3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;
  - (4) A statement as to how the need for the information outweighs any need to maintain the confidentiality of the information and outweighs the burden on the FLRA to produce the records or provide testimony;
  - (5) A statement indicating that the information sought is not available from another source, from other persons or entities or from the testimony of someone other than an employee, such as a retained expert;
  - (6) If testimony is requested, the intended use of the testimony, and a showing that no document could be provided and used in lieu of testimony;
  - (7) A description of all prior decisions, orders or pending motions in the case that bear upon the relevance of the requested records or testimony;
  - (8) The name, address, and telephone number of counsel to each party in the case; and
  - (9) An estimate of the amount of time that the requester and other parties will require for each employee for time spent by the employee to prepare